



Appeal Decision

Hearing held on 17 April 2024

Site visit made on 17 April 2024

by **N Praine BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/R3650/W/23/3335283

Land South of Ridgley Road, Chiddingfold

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Elivia Homes against the decision of Waverley Borough Council.
 - The application Ref is WA/2022/02210.
 - The development proposed is described as 12 dwellings with associated access, and hard/soft landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for 12 dwellings with associated access, and hard/soft landscaping at Land South of Ridgley Road, Chiddingfold in accordance with the terms of the application, Ref WA/2022/02210, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Elivia Homes against Waverley Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. While members of Chiddingfold Parish Council attended and spoke at the hearing, any reference to the 'Council' in my decision refers to the Borough Council unless expressed otherwise.
4. The fourth and fifth reasons for refusal in the Council's decision notice relate to the absence of a mechanism to secure management and provision of open space, play areas and affordable housing. A signed and dated unilateral undertaking ("UU") in accordance with Section 106 of the Town and Country Planning Act 1990 was submitted by the appellant after the hearing, the Parish Council is also a signatory to the UU. The Council was given opportunity to comment on the UU and I deal with this later in my decision.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area;

- The effect of the proposed development on improving links to encourage walking routes; and
- Whether the proposed development makes adequate provision for play space for future occupiers.

Reasons

Character and Appearance

6. Ridgley Road comprises a broad mix of dwellings which have a predominantly uniform character insofar as being setback from and facing the highway. Despite the broad uniformity as indicated above, as one travels from the junction with Coxcombe Lane toward the appeal site it is apparent that the pattern of development also has a wider sense of variety in the built form. This is achieved as some groups of buildings are set laterally close to each other while others are set further apart. This variety also occurs with changes in setbacks and off street carparking which comprise a mix of frontage parking courts as well as parking to the side areas of the existing dwellings in Ridgley Road.
7. Although it was suggested that the character of the area becomes less spacious and more rural as one travels toward the appeal site from Coxcombe Lane, I noted properties near to the appeal site such as Pear Tree House and Greenway sited close to each other. Meadowside and Graftons sited opposite the appeal site are also sited reasonably close to each other.
8. Additionally, and while not direct components of Ridgley Road, some of the dwellings in Woodside Road and Field View Close, beyond the appeal site and toward Combe Lane, are visible from Ridgley Road. They contribute to the character and appearance of the area in the vicinity of the appeal site. The siting and limited spacing around some of these dwellings also contribute toward the sense of variety within this streetscape as the journey from Coxcombe Lane toward the appeal site and beyond is traversed.
9. The proposed development would be set further back within the site than the previous schemes¹, when viewed from Ridgley Road. It would introduce 10 principal buildings split into 12 plots. The dwellings feature a gently staggered building line with some buildings slightly angled. This would pay suitable regard to the existing fairly uniform nature of some parts of the wider street scene as well as adding interest to the established variety of the area.
10. In general terms, while the dwellings would have a moderately tighter urban grain than the buildings opposite, I am mindful of the proposed on-site Local Area of Play, the incorporation of hipped roof features and catslide roof designs. These design and layout features would visually create appropriate space within and around the development.
11. Furthermore, the proposed development would incorporate setbacks and spacing which would help to integrate the scheme with the broader context. This built form would add interest to the area by responding suitably to the wider variety. Accordingly, the scheme would provide a suitable response to

¹ Council References: WA/2022/00888 and WA/2022/00889.

- the character of the area and I do not find the proposed buildings would be harmfully rigid or regimented when experienced within this streetscape.
12. Parking would be achieved to the front of the proposed dwellings. I acknowledge that the Council would prefer parking to the side and rear of dwellings, however, the proposed frontage parking coherently responds to the parking layouts elsewhere in Ridgley Road and in particular several of the plots opposite. Some of the proposed plots: nos 1, 5 and 7, also feature double integral garages and others: nos 2, 3, 4, 6, and 8 feature single garages. These garages would aid in reducing the prevalence of parked cars to the front of development.
 13. While plot 10 would have 4 parking spaces to the front, these would be sited behind the retained hedge with parking areas at the adjoining plots reduced to two frontage parking spaces. As a result, the parking layout as proposed would protect the existing character of the area.
 14. Mature boundary landscaping already is a feature in the local area and this also makes a positive contribution to local distinctiveness within the appeal site. An acceptable level of boundary landscaping would be retained to the side and rear boundaries with the drawings showing additional planting which would supplement this landscaping.
 15. Boundary landscaping around the appeal site would fall under a management company and in the event this appeal is acceptable conditions to agree landscape management could be imposed. While 5 new vehicular crossovers would be proposed to the front boundary, the drawings show that the remaining existing frontage landscaping would be maintained at 2.0m in height as a dense hedgerow. Other areas of the frontage would be laid to grass with hedge and shrub planting. This proposed frontage would accord with the landscape character of the area.
 16. The appellant's Arboricultural Implications Report states that low quality secondary woodland would be removed within the site but mature trees, category 'A' or 'B' trees, and trees of high landscape or biodiversity value would be retained. Given the retention of these trees including a Tree Preservation Order to the trees facing the rear gardens, retention of hedgerows and additional planting as proposed, this aspect of the proposed development would satisfactorily reflect the established landscape character of the locality.
 17. The proposed dwellings would incorporate chimneys, tile hanging features with varied roof designs including cat slide and hipped styles. The appearance of the proposed dwellings would accord with the local character and would be an acceptable design response to the site.
 18. Drawing these matters together, the layout, form and appearance of the development, together with the retained and proposed planting on the site, would combine to produce a development that was a suitable response to the site, and which would be sympathetic to the character and appearance of the area.
 19. In these regards the scheme would comply with the relevant provisions of Policies DM1 and DM4 of the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies 2023 ("the LPP2"), Policies BE1 and BE2 of the Chiddingfold Neighbourhood Plan 2021 ("the NP") and the

National Planning Policy Framework ("the Framework"). All of which, amongst other things, require development proposals to protect, conserve, and enhance the character of the wider landscape.

Walking Routes

20. Policy BE4 of the NP states, among other things, that walking routes and wayfinding links to a coherent wider network should be improved where feasible. Policy HA2 of the NP expands on this by requiring the exploration of the opportunity to provide footpath connectivity through the western boundary to the existing surgery.
21. Policy HA2 identifies a requirement to explore footpath provision to the existing surgery. The ordinary interpretation of the word 'explore' means to examine a subject or a possibility. In this case I would agree with the appellant that to 'explore' something accepts that delivery may not be feasible.
22. In this case there are land ownership issues at the landing area to one side of the suggested footpath connection. Additionally, use of this proposed footpath would take an undulating route through vehicle parking and vehicle circulation areas on both sides of the footpath which do not benefit from dedicated pedestrian routes to get to the surgery.
23. The surgery is located very close to the proposed development and future occupiers could simply walk along the short stretch of existing footpath with dropped curb and tactile surfaces.
24. The Council feels the appellant has not sufficiently explored the footpath provision and I accept that choice in routes and improving connectivity across development sites is important. However, the appellant has explored this and, in this case, I find it unfeasible for the reasons given. The proposed development would, therefore, comply with this part of Policy HA2 of the NP.
25. In any case, it has not been robustly shown how the additional footpath would improve the existing situation given the short distances involved and limitations identified above. The proposed development would, therefore, not unacceptably discourage walking routes and would comply with the relevant provisions of Policies HA2 and BE4 of the NP which, amongst other things, require development proposals to improve and encourage walking routes.

Play Space

26. Policy LRC1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 ("the LPP1") encourages the provision of new open space, sports, leisure, and recreation facilities. It states that new residential developments will be expected to make provision for play space having regard to the Fields in Trust standards set out in Table 1 of the LPP1.
27. Paragraph 12.3 of the LPP1 supports financial contributions for improved facilities where needed. Paragraph 12.16 of this document also states that financial contributions towards improvements of an existing equipped / designated play space may be sought from developers in lieu of on-site provision.
28. While the Council stated that a Local Equipped Area for Play ("LEAP") should be provided on site, it has not been robustly shown that on site provision is critical

for a proposed LEAP to meet the criteria as set out in either Table 1 or Policy LRC1 of the LPP1. The appeal site is located close to an existing recreation ground at Combe Lane. The existing recreation ground comprises open fields and a car park but currently does not benefit from play equipment. I have no clearly documented reason to believe, subject to an appropriate legal agreement to secure delivery which I consider below, that a LEAP cannot be delivered off site which would comply with the walking guidelines, minimum size, and buffer zones as set out in Table 1 of the LPP1.

29. Therefore, the proposed development would make adequate provision for play space for future occupiers and would accord with the relevant provisions of Policy LRC1 of the LPP1 and the Framework. These, amongst other things, promote outdoor recreation, health, and well-being of communities.

Unilateral Undertaking

30. A draft UU² was submitted during the hearing. Following discussions which took place at the hearing, it was subsequently updated and signed³ to provide more certainty in respect of LEAP delivery.
31. The UU makes provision for the payment of £120,000 towards the cost of a LEAP and it also secures management of on-site open space including a Local Area of Play ("LAP") on Land owned by the Parish Council. Policy LRC1 of the LPP1 seeks to secure formal outdoor play space. The proposed development is required to provide a LAP and LEAP in accordance with the defined specifications set out in Table 1 of the LPP1 as taken from the Fields in Trust Standards.
32. The planning obligation would secure the necessary provision and maintenance of open space to meet the requirements of the relevant policy. It sets out the mechanisms to ensure certainty in delivering these areas. The delivery of the open space in accordance with the submitted details, and the need for a management company is a proportionate requirement directly related to the proposal, as it would meet the needs of future occupants. Accordingly, this is a necessary obligation and would meet with the legal requirements for planning obligations as detailed in the Framework.
33. Policy AHN1 of the LPP1 states that the Council will require a minimum provision of 30% affordable housing as part of housing schemes providing a net increase of eleven dwellings or more. The planning obligation would secure on site affordable housing in accordance with this policy.
34. The obligation sets out the mechanisms for providing and managing the affordable housing including the process for transferring them to an affordable housing provider, ensuring it would be provided in a timely phased manner and setting out how it would remain as affordable housing. It is necessary for the affordable housing to be secured through a planning obligation and this level of affordable housing fairly and reasonably relates in scale and kind to the development. Accordingly, this is a necessary obligation and would meet with the legal requirements for planning obligations as detailed in the Framework.

² Document HD2

³ Document HD3

35. I therefore conclude that the planning obligations would meet the relevant tests and the appeal proposal would make appropriate provision for play space arising from the development itself and for affordable housing provision.

Conditions

36. I have had regard to the conditions suggested by the Council and, where appropriate I have merged some conditions and amended the recommended wording in accordance with Planning Practice Guidance⁴ ("the PPG"). The appellant has also confirmed their acceptance of the pre-commencement conditions.
37. I have imposed the standard commencement condition and one specifying the approved plans for the sake of certainty. Conditions to agree surface materials are also required in the interests of the character and appearance of the area.
38. Vehicular access, visibility, parking, turning, highway drainage, crossover, construction management and footway conditions are required in accordance with highway safety. A condition to agree fast charge sockets for vehicles is also necessary in the interests of sustainable transport and an archaeology condition to ensure any archaeological remains are recorded.
39. Conditions to control noise, vibration and on site burning as well as the agreement of a Construction Environmental Management Plan, are reasonable to protect the living conditions of existing and future occupiers. Drainage conditions are required to ensure the development does not increase flood risk on or off site and conditions in respect of land contamination are relevant given the history of this site and the proposed sensitive use for human occupation.
40. I have imposed conditions relating to landscaping of the development, floodlighting and protection of trees in the interests of the character and appearance of the area and biodiversity. I have also included conditions to ensure high speed broadband infrastructure is installed and water efficiency measures are incorporated in the interests of sustainable construction and efficient use of resources.
41. While the appellant raised no objection to conditions which would remove permitted development rights, I am mindful that paragraph 54 of the Framework states that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG⁵ says that area-wide or blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
42. Given I have found the proposed development to be acceptable in character and appearance terms, there is limited evidence before me to suggest removal of freedoms to carry out small scale domestic alterations would be harmful to the character and appearance of the area, or harmful to the living conditions of neighbouring occupiers. I have therefore not imposed suggested conditions 31 and 32.

⁴ Paragraph: 003 Reference ID: 21a-003-20190723

⁵ Paragraph: 017 Reference ID: 21a-017-20190723

Conclusion

43. For the above reasons, the scheme would accord with the policies of the development plan when considered as a whole and material considerations do not indicate otherwise. Accordingly, the appeal should be allowed, and planning permission granted.

N Praine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Andrew Black MRTPI, Andrew Black Consulting.
Mr Nathan Craker MRTPI, Elivia Homes.
Mr Steve Brownlie, Elivia Homes.
Mr Keith Lancaster, Gateley Legal.

FOR THE LOCAL PLANNING AUTHORITY:

Michael Eastham BA (Hons) MTP, MRTPI.
Sarah Wells BA (Hons) BTP MA (Urb Des) MRTPI.

INTERESTED PARTIES (denoting those persons who took part in the hearing and whose names were recorded):

Cllr Tony Wiener, Chiddingfold Parish Council.
Cllr Daniel Hall, Chiddingfold Parish Council

DOCUMENTS SUBMITTED DURING THE HEARING:

HD1. List of plans agreed by both parties.
HD2. Unsigned draft legal agreement (Version 6 as of 17 April 2024).

DOCUMENTS SUBMITTED AFTER THE HEARING:

HD3. Signed legal agreement dated 30 April 2024.

Appeal Ref: APP/R3650/W/23/3335283
Land South of Ridgley Road, Chiddingfold

Schedule of conditions attached to planning permission (32 in total)

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No. LOC2 Rev. P03 – Site Location Plan
Drawing No. PL 101 Rev. P02 – Existing Site Plan
Drawing No. PL 100 Rev. P11 – Proposed Site Plan
Drawing No. PL103 Rev. P03 – Proposed Street Scene
Drawing No. PL110 Rev. P04 - 3 Bed Affordable House Type Elevation Plot 9 & 10
Drawing No. PL111 Rev. P03 - 4 Bed Detached House Type A Elevation Plots 3 & 8
Drawing No. PL112 Rev. P02 - 2 Bed Affordable House Type Elevation Plots 11 & 12
Drawing No. PL113 Rev. P03 - 5 Bed Detached House Type Elevation Plots 1, 5 & 7
Drawing No. PL114 Rev. P04 - 3 Bed Affordable House Type Plan Plot 9 & 10
Drawing No. PL115 Rev. P02 - 2 Bed Affordable House Type Plan Plot 11 & 12
Drawing No. PL116 Rev. P02 - 4 Bed Detached House Type Plan Plots 2, 3, 4, 6 & 8
Drawing No. PL117 Rev. P03 - 5 Bed Detached House Type Plan Plots 1, 5 & 7
Drawing No. PL118 Rev. P03 - 4 Bed Detached House Type B Elevation Plots 2, 4 & 6
Drawing No. PL121 Rev. P01 – Solar Analysis
Drawing No. PL150 Rev. P02 – MANCO Plan
Drawing No. PL151 Rev. P01 – Garden Sizes
Drawing No. 1907063-02 Rev. A – Proposed Access Arrangements: Visibility Splays
Drawing No. 1907063-03 Rev. A - Proposed Access Arrangements: Visibility Splays
Drawing No. VAN23492-11C Sheet 1 – Landscape Proposals
Drawing No. VAN23492-11C Sheet 2 – Landscape Proposals
Drawing No. VAN23492-site wide – Landscape Proposals
Drawing No. SJA TPP 22363-041a – Tree Protection Plan

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

4) No development shall be commenced unless and until a vehicular access suitable for providing access for construction vehicles has been constructed and provided with 2.4m x 43m visibility splays in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Once approved the scheme shall be installed in accordance with the approved details and retained during the construction period of the development.

5) Prior to the first occupation of any of the proposed dwellings, the dropped kerb access serving its associated dwelling/s shall be constructed and provided with:

a) 2.4m x 43m vehicle inter-visibility splays.

b) 2.0m x 2.0m pedestrian inter-visibility splays.

c) A means within the private land of preventing private water from entering the highway and a means at the back edge of highway of preventing highway water from entering the private land in accordance with the approved plans.

thereafter the visibility splays shall be kept permanently clear of any obstruction over 0.6m.

6) No dwelling hereby approved shall be first occupied unless and until the following highway improvement works shall be constructed and retained in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority, in consultation with the County Highway Authority:

a) Widening of the existing footway to 2.0m on the southern side Ridgley Road alongside the frontage of the site.

b) Provision of an uncontrolled crossing on Ridgley Road within the vicinity of its junction with Ash Combe.

7) No dwelling hereby approved shall be first occupied unless and until its associated parking spaces and space for vehicles to turn, so that they may enter and leave the site in forward gear, has been provided in accordance with the approved plans. Thereafter the parking spaces and turning areas shall be permanently maintained for their designated purpose.

8) No dwelling hereby approved shall be first occupied unless and until a scheme detailing the type of secure cycle storage (for houses with and without garages) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided prior the first occupation of each dwelling and retained as such.

9) No dwelling hereby approved shall be first occupied unless and until each of the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be provided prior the first occupation of each dwelling and retained as such.

10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:

a) Parking for vehicles of site personnel, operatives, and visitors.

b) Loading and unloading of plant and materials.

c) Storage of plant and materials.

d) Programme of works (including measures for traffic management).

- e) Provision of boundary hoarding behind any visibility zones.
- f) HGV deliveries and hours of operation.
- g) Vehicle routing.
- h) Measures to prevent the deposit of materials on the highway.
- i) Before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused.
- j) On-site turning for construction vehicles has been submitted to and approved in writing by the Local Planning Authority.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

11) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) An indicative programme for carrying out of the works.
- b) The arrangements for public consultation and liaison during the construction works.
- c) Measures to minimise the noise (including vibration) generated by the construction process, to include proposed method of piling for foundations, the careful selection of plant and machinery and the use of noise mitigation barrier(s).
- d) Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination.
- e) The parking of vehicles of site operatives and visitors.
- f) Loading and unloading of plant and materials.
- g) Storage of plant and materials used in constructing the development.
- h) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- i) Wheel washing facilities.
- j) Measures to control the emission of dust and dirt during construction.
- k) A scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Environmental Management Plan shall be adhered to throughout the construction period for the development.

12) All plant, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated so that the rating level of noise emitted does not exceed the background sound level, when measured according to British Standard BS4142: 2014 at any adjoining or nearby noise sensitive premises.

13) If the dwellings are to be completed and occupied prior to the development being finished, a scheme to protect those occupants from noise and vibration should be submitted for approval to the Local Planning Authority. The approved details shall be adhered to throughout the remainder of the construction period for the development.

14) Prior to commencement of development, other than that required to be carried out as part of demolition or approved scheme of remediation, the following shall be submitted to and approved in writing by the Local Planning Authority:

a) An investigation and risk assessment, in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment shall be undertaken by a competent person as defined in Annex 2: Glossary of the National Planning Policy Framework.

b) If identified to be required, a detailed remediation scheme shall be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings, and other property. The scheme shall include:

- a) All works to be undertaken.
- b) Proposed remediation objectives and remediation criteria.
- c) Timetable of works.
- d) Site management procedures.

The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation works shall be carried out in strict accordance with the approved scheme. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

15) Upon completion of the approved remediation works, a verification report demonstrating the effectiveness of the approved remediation works carried out shall be completed in accordance with Condition 14 above and shall be submitted to the Local Planning Authority for approval prior to occupation of the development.

16) Following commencement of the development hereby approved, if unexpected contamination is found on site at any time, other than that identified in accordance with Condition 14 above, the Local Planning Authority shall be immediately notified in writing and all works shall be halted on the site. The following shall be submitted and approved in writing by the Local Planning Authority prior to the recommencement of works:

- a) An investigation and risk assessment.
- b) Where required, a remediation scheme in accordance with the requirements as set out in Condition 14 above.
- c) Following completion of approved remediation works, a verification report, in accordance with the requirements as set out in Condition 15 above.

17) No dwelling hereby approved shall be first occupied unless and until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, National Planning Policy Framework and Ministerial Statement on SuDS. The required drainage details shall include:

- a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.
- b) Evidence that the proposed final solution will effectively manage the 1 in 30 (+40% allowance for climate change) & 1 in 100 (+45% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. Associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 1.5 l/s.
- c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.).
- d) A plan showing exceedance flows (i.e., during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk. Including blockage risk reduction measures to the existing downstream culvert.
- e) Details of drainage management responsibilities and maintenance regimes for the drainage system.
- f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

Once approved the scheme shall be installed in accordance with the approved details and retained as such.

18) No dwelling hereby approved shall be first occupied unless and until, a verification report carried out by a qualified drainage engineer has been submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.

19) No development shall commence unless and until an Arboriculture Method Statement and scaled Tree Protection Plan has been submitted to and approved by the Local Planning Authority. This report shall include:

- a) Detail of special foundation design as required to counteract indirect damage upon new structures by the influence upon the soil of planted and existing future trees/root growth. This detail should accord with industry best practice for example in relation to BRE and NHBC Chapter 4.2 certification/recommendations.
- b) Detail of location and implementation of soil amelioration methods within available unaffected Root Protection Areas (RPAs) towards off-setting impacts of RPA encroachment.
- c) A plan locating construction activities and access routes. This shall include the location of soil piles, material storage, cement mixing, porta cabins/porta loos and parking areas. Unless otherwise agreed by the Local Planning Authority these shall be placed outside of the RPAs and at a minimum distance of 3 metres from retained hedgerows.
- d) Detail of all ground level changes within and adjacent to the site of this development.
- e) Where RPA encroachment is deemed necessary; Detail of ground protection and weight bearing capacity to support maximum expected traffic loads according to frequency of use. The ground protection should be temporary for example consisting of interlocked panels, upon an inert cushioning layer upon a porous geotextile fabric.
- f) Detail of facilitation pruning in accordance with BS3998 and/or physical non-invasive restraints to protect main stems, bark, roots and branches from construction and access.
- g) Where RPA encroachment by services is deemed necessary; Detail of service plans and method of instalment within RPAs such as surface, sewerage, foul water, and SUDS, electric, water, gas, telecommunication cables are to be submitted for approval. Cables for electric gates and solar/photovoltaic panels and other utility runs associated with this development shall be included with this submission.
- h) Shadow assessment and detail of measures to mitigate future growth of trees affecting householders garden space, and attachments to property such as aials, WIFI receivers and photovoltaic panels.
- i) To avoid open ground becoming rutted and soils/substances becoming liquified soils and migrating into the RPA especially during wet conditions a minimum buffer distance of 3 metres from the protection fence should be set as a minimum and maintained. If this is not possible then details of bunding or other measures that would effectively prevent soil/substance migration into RPAs shall be submitted to the Local Authority for approval.

j) The protection fence should remain clear of any stacked or placed materials against it throughout the development.

k) Notices should be affixed regularly at head height to tree protection fence panels alerting construction workers of their purpose.

l) Considering the rural location and likelihood of wildlife; bird scare/brightly coloured ribbons shall be attached to the mesh of each protection fence panel at shoulder height (1.5 metres).

The approved Arboriculture Method Statement and Tree Protection Plan shall be adhered to throughout the construction period for the development.

20) The Local Authority shall be notified at least 2 weeks prior to expected commencement of demolition / construction activities with a written notice. The notification shall include photographic evidence of tree protection, such as temporary ground cover, sacrificial surface layer and Heras fencing. All protection measures shall strictly accord with the approved Tree Protection Plan (TPP) and Arboriculture Method Statement (AMS). The Local Planning Authority shall determine the detail within the notice and if found satisfactory shall provide written approval for the development to proceed. This approval requires continued monitoring by the appointed person to maintain tree protection measures throughout the life of the construction in accordance with the approved TPP and AMS.

21) Prior to the commencement of demolition / construction, a scheme and implementation of monitoring shall be submitted to Local Planning Authority and implemented throughout the life of the development. Details for example shall include:

- a) Name of appointed arboriculturist/representative responsible for site monitoring.
- b) Detail of monitoring frequency throughout the demolition/construction period.
- c) Reporting procedure of tree damage, with methods of remediation and implementation.
- d) Expected date of first monthly monitoring checks to commence at least one month after receiving evidence of implemented and approved on-site tree protection measures or as otherwise agreed by the Local Planning Authority.

The development shall be carried out in accordance with the approved monitoring details.

22) No development shall commence unless and until, a 5-year landscape scheme including tree management and method of planting and establishment in accordance with BS 8545:2014, with consideration to appropriate locating of new trees to mitigate those which are to be removed has been submitted to the Local Planning Authority in writing. The scheme shall include the following information:

- a) Scaled plan showing location of plant and new trees displaying their maximum mature canopy sizes.
- b) List the species and transplantation sizes in accordance with Nursery Stock Specification BS3936 (1992).
- c) Detail planting and method of support and protection.
- d) Provide a scheme of irrigation, and dosage rates throughout the first two years after planting.

The development shall be carried out in accordance with the approved monitoring details.

23) The Local Planning Authority shall be provided written notice within the first 3 months of completing the first year's planting with photographic evidence to demonstrate all plants and trees have been planted in accordance with the approved landscape scheme.

24) Prior to the first occupation of the dwellings hereby permitted the highest available speed broadband infrastructure will be installed and be made available for use.

25) No dwelling hereby approved shall be first occupied unless and until written evidence has been submitted to and been approved in writing by the Local Planning Authority (LPA) demonstrating that it will achieve a maximum water use of no more than 110 litres per person per day as defined in paragraph 36(2b) of the Building 11 Regulations 2010 (as amended), measured in accordance with the methodology set out in Approved Document G (2015 edition with 2016 amendments). Such evidence shall be in the form of a design stage water efficiency calculator. Once approved, the development shall be completed wholly in accordance with the agreed details.

26) No development shall commence unless and until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Local Planning Authority.

27) No deliveries shall be taken at or dispatched from the site outside the hours of 08:00-18:00 Mondays-Fridays and 08:00-13:00 on Saturdays, nor at any time on Sundays and Public Holidays.

28) No machinery shall be operated which is audible outside the site boundary outside the following hours of 08:00 – 18:00 Mondays – Fridays and 08:00 – 13:00 Saturdays, nor at any time on Sundays or Public Holidays.

29) No floodlights or other forms of external lighting shall be installed at the premises without the prior permission in writing of the Local Planning Authority.

30) There shall be no burning of any waste or other materials on the site.



Costs Decision

Hearing held on 17 April 2024

Site visit made on 17 April 2024

by **N Paine BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Costs application in relation to Appeal Ref: APP/R3650/W/23/3335283 Land South of Ridgley Road, Chiddingfold

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Elivia Homes for an award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for development described as 12 dwellings with associated access, and hard/soft landscaping.
-

Decision

1. The application for an award of costs is refused.

The submissions for Elivia Homes

2. The applicant considers, in summary, that the Council behaved unreasonably as despite the applicant working with the Council during the lifecycle of the application for 14 months with regular engagement and meetings, the Council refused the application without warning. The decision also contained reasons for refusal that had not been previously discussed and the applicant was not given opportunity to respond.
3. The applicant also considers the proposed development complies with policy and the Council failed to apply the presumption in favour of development at a time when housing is in need. The applicant states that the Council failed to provide sufficient evidence to substantiate each reason for refusal on appeal, with vague and imprecise impacts of harm.
4. The applicant also asserts that the council failed to co-operate as there was a delay of two weeks after the decision was made before the publishing of the Officer Report and it took the Council 6 weeks to respond to the applicant in respect to the drafting of a legal agreement.

The response by Waverley Borough Council

5. The Council states the 14-month period was a result of addressing the responses to consultations and regular meetings took place over this period with the applicant to resolve issues where possible. The Council stated that agreement could not be achieved in every aspect, and it proceeded to decision.
6. The Council also said that their computer system should have published the report immediately after the decision was entered. As soon as they were notified of the issue, the system was checked, and the decision was published without any further delay. The Council accepts that it took 6 weeks to respond to legal queries stating that this was because of workload pressures.

Reasons

7. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
8. While there are no formal minutes or agreed actions before me in respect of the various meetings, it appears the Council did work with the applicant during the 14-month period and some matters were agreed. However, there comes a point where total agreement may not be possible and the Council eventually makes a formal decision in the interests of expediency.
9. While it is good practice for the Council to work pro-actively with applicants, I have also not been made aware of any formal requirement for a Council to warn an applicant of the detail and likely outcome of a planning application before a decision is formally issued.
10. The reasons for refusal are set out in the decision notice of the planning application and are complete, precise, specific and relevant to the planning application. The reasons are also linked to the policies of the development plan and are expanded upon in the Council's Delegated Report and Statement of Case.
11. The impact of the development proposal on the character and appearance of the area was a matter of planning judgement. Additionally, while the Council felt the applicant had not explored the footbridge in sufficient detail, the degree of detail required is also a matter of judgment. The reasons for refusal have been supported by a satisfactory level of evidence and planning arguments and I do not consider them to be vague or imprecise.
12. While I ultimately disagreed with the Council, I consider that the Council had reasonable concerns about the impact of the proposed development which supported its decision. The Council also acknowledged its housing supply position and found the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits. Again, this was a planning judgement for the Council to make and was not unreasonable in the way it approached this matter.
13. While there was a 2-week delay in publishing the Council's Delegated Report, this appears to be a technical error and the Council immediately corrected it when the matter was brought to their attention.
14. Notwithstanding the 2-week delay, the appeal was still submitted in good time and the applicant has not clearly identified how unnecessary or wasted costs occurred during the 2 weeks. The Council took immediate steps to publish the report as soon as the applicant brought the matter to the Council's attention and the appeal was still submitted in time.
15. I have also considered the 6-week period in respect to the drafting of a legal agreement. However, it has not been clearly shown that had this period been reduced it would have significantly changed the content of the appeal coming before me. Particularly as the appeal had been lodged for four months before the hearing date. From the evidence before me, the applicant still had to address the reasons for refusal which was articulated in their evidence.

Conclusion

16. As a result, having considered the above, I conclude that unreasonable behaviour by the Council, as described in the Guidance, has not been clearly demonstrated. Therefore, unnecessary or wasted expense in the appeal process has not been incurred by the applicant. Consequently, the application for an award of costs is refused.

N Praine

INSPECTOR

Richborough